UNITED
NATIONS

E

Economic and Social
Council

Distr
GENERAL

E/CN.4/2000/9/Add.1
13 January 2000

ENGLISH
Original: SPANISH

COMMISSION ON HUMAN RIGHTS
Fifty-sixth session
Item 11 (a) of the provisional agenda

CIVIL AND POLITICAL RIGHTS, INCLUDING THE QUESTIONS OF TORTURE AND DETENTION

Report of the Special Rapporteur, Sir Nigel Rodley, submitted in pursuance of Commission on Human Rights resolution 1999/32

Addendum

Follow-up to the recommendations made by the Special Rapporteur

Visits to Chile, Colombia, Mexico and Venezuela

CONTENTS

	Paragraphs	Page
Introduction	1	2
Chile	2 - 19	2
Colombia	20 - 55	6
Mexico	56 - 122	12
Venezuela	123 - 148	25

GE.00-10126 (E)

Introduction

1 This document contains information supplied by Governments relating to the recommendations made by the Special Rapporteur. The recommendations were made following a series of visits to Chile (see E/CN 4/1996/35/Add 2), Colombia (see E/CN 4/1995/111), Mexico (see E/CN 4/1998/38/Add 2) and Venezuela (see E/CN 4/1997/7/Add 3). The information also covers individual cases which were reported to the Special Rapporteur on the occasion of these visits. Owing to a shortage of resources, the Special Rapporteur was unable to include in his report to the Commission at its fifty-fifth session the replies received between 6 December 1997 and 10 December 1998. All the replies received by the Special Rapporteur between 6 December 1997 and 15 December 1999 are included in the present document. The Special Rapporteur's comments may be found in the main report.

Chile

Follow-up to the recommendations made by the Special Rapporteur concerning torture in the report of his visit to Chile in August 1995 (E/CN 4/1996/35/Add 2)

2 By note verbale dated 10 September 1996 the Government transmitted to the Special Rapporteur a number of observations on the recommendations he made following his visit to Chile in August 1995 (see E/CN 4/1996/35/Add 2). A summary of the Government's comments and the Special Rapporteur's observations were included in the report which the Rapporteur submitted to the Commission on Human Rights at its fifty-third session (E/CN 4/1997/7, paras. 43-54).

3. By letter dated 22 September 1997, the Special Rapporteur asked the Government for information on a number of aspects of those recommendations, which are set out under various headings (E/CN 4/1998/38, paras. 46 and 47). The Government responded to the request in letters dated 25 March and 24 September 1998. The questions posed by the Rapporteur and a summary of the Government's replies are set out below.

4 In the legislative field, the Special Rapporteur asked the Government for information on the follow-up given to the report by the Constitutional, Legislative and Judicial Committee of the Chamber of Deputies, which proposed eliminating the "arrest on suspicion" provision from the Code of Criminal Procedure, the follow-up to the bill reforming the Code of Criminal Procedure and the Penal Code with regard to detention and the strengthening of the protection of civil rights; the situation concerning the draft Code of Criminal Procedure and the Prosecution Service (Organization) bill, and the steps taken towards the adoption of the bill submitted to the Chamber of Deputies in 1996 to characterize torture as an offence.

5. Concerning the bill which modifies the provisions of the current Code of Criminal Procedure and the Penal Code dealing with detention and sets out rules for the protection of citizens, the Government reported the adoption of Act No. 19.567 on 22 June 1998 and provided the Special Rapporteur with a copy, together with a note explaining the main elements and photocopies of the articles of the Code of Criminal Procedure and the Penal Code which have been amended or deleted by the new Act. The Act entered into force on 1 July 1998. Its main provisions are summarized below.

6. Firstly, the Code of Criminal Procedure was amended. In particular, the articles allowing arrest on suspicion were repealed and an article added under which public officials are obliged, at the time of arrest, to provide persons being arrested with a verbal indication of the grounds on which they are being deprived of their freedom and inform them of their rights; these must be displayed in any place of detention in a prominent manner. The person in charge of the first place of detention to which an arrested person is taken bears the same obligation to provide information. The rights of arrested persons include: the right to be informed of their rights and the grounds for their arrest, to remain silent, to be taken immediately to a public place of detention, to have a relative or another person of their choice informed, in their presence, of the grounds for the arrest and the place where they are being held, not to be subjected to torture or cruel, inhuman or degrading treatment, to request the presence of a lawyer, to receive visits, except where they have been forbidden by order of a court, to benefit from legal counsel chosen by them or designated by a court, to be brought before a court, and to be provided with such amenities as are compatible with the prison regime.

7. The reform of the Code of Criminal Procedure also covers the consequences of failure by the officials responsible for the arrest to comply with these obligations. Specifically, a court will disregard any statements made by an arrested person in the presence of arresting personnel who have failed to comply with these obligations, and will forward details of such cases to the appropriate authorities so that the applicable disciplinary measures can be imposed.

8. Regarding the amendments introduced in the Penal Code by the new Act, a new provision lays down the following punishments: between 541 days and 5 years for public employees who "subject a private individual who is in detention to torture or unlawful physical or mental coercion or who order or consent to their use", between 3 and 10 years for anyone who, by the same means, "compels the victim or a third party to make a confession, provide a statement of any kind or supply information", and between 5 and 15 years for public employees who inflict serious injury on or cause the death of a detained person, as a result of the acts described above, if the result is attributable to the negligence or lack of care of the public employee. Also covered are lesser punishments applicable to persons who are not public employees and who perform acts of the same type. The Act takes up the international criteria relating to torture which are to be found in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In that regard, the Government highlighted the designation of torture as an offence and the prevention of torture in the context of the rights of detainees, and especially the right to remain silent. Lastly, it emphasized the repeal of the articles relating to the offences of vagrancy and begging.

9. Concerning the bill on a new Code of Criminal Procedure and the Prosecution Service (Organization) Act, the Government stated that the draft of the new Code had been approved by the Chamber of Deputies on 21 January 1998, and forwarded to the Senate. Regarding the Prosecution Service, Act No. 19.519 had been adopted on 16 September 1997, while the organization act for the service still awaits adoption.

10. The Rapporteur asked the Government to provide information on law enforcement officials who had been punished for offences relating to violation of the right to the physical integrity of detained persons in the years 1996 and 1997.

11. The Government replied to this question in the letter of 25 March 1998. Concerning the uniformed police (Carabineros), the Director of Carabineros said that he could not supply information on internal administrative procedures because they referred solely to breaches of the Disciplinary Regulations committed by officials, whereas offences against the law were tried by the courts. Regarding cases where the right to physical integrity of persons detained awaiting trial had been violated, the Director stated that he could provide only a list of cases involving Carabineros officers who were being investigated in connection with unnecessary violence and/or unlawful or arbitrary detention. The Government provided the Rapporteur with the list, which indicated that seven cases were before the second military prosecutor's office, Santiago, a further seven before the fourth office and three before the sixth office.

12. As far as the Police Department was concerned, the Government supplied information on administrative proceedings initiated between 1995 and 1997, and their outcome. During 1995 proceedings were begun in six cases, with the following outcomes: dismissal of proceedings in three cases, punishment of two detectives in connection with irregularities in the arrest of a minor, punishment of one detective in connection with illegal arrest, and punishment of a deputy superintendent and two inspectors in the Western Theft Investigation Brigade in connection with illegal arrest. For 1996, proceedings were begun in six cases, with the following outcomes: dismissal of proceedings in three cases, one police officer punished for unlawful coercion, one deputy superintendent and one detective punished for causing injury, and two detectives and one typist punished for alleged arbitrary arrest. For 1997 there were proceedings under way in five cases involving various violations of the physical integrity of detained persons alleged to have been committed by officers of the fifteenth (Jose Maria Caro), thirteenth (San Miguel), Coyhaique, Los Andes and San Felipe offices of the criminal investigation service.

13. Also with regard to the Police Department, the Government provided information relating to the years 1996 and 1997 on officers charged with breaches of the right of detained persons to physical integrity, indicating the judgements delivered in courts of first instance or final judgements. Six cases had been heard during the two years, all involving charges of unlawful coercion. Three of them were at the examination stage. In these cases charges of unlawful coercion had been laid against: an inspector and a deputy chief of the Buin office of the criminal investigation service; an inspector and three detectives in the Coquimbo office; and a police driver in the Western Theft Investigation Brigade. A fourth case against a detective from the La Liga criminal investigation office had been dismissed by the Valparaiso Appeal Court. An appeal had been lodged against a suspended sentence of 540 days imposed on a detective from the Ñuñoa Theft Investigation Brigade. Lastly, in the sixth case, an inspector and nine detectives from the Metropolitan Anti-drugs Brigade had been summoned to make statements but had not been charged.

14. The Government also supplied information on the Gendarmeria, stating that between 1995 and 1997 administrative proceedings had been initiated in 39 cases, relating to events which were suspected to involve ill-treatment of persons in the hands of the Gendarmeria. The cases, which involved 10 of the country's 13 regions, related principally to complaints of physical ill-treatment of prisoners, injuries to accused persons and a complaint of indecent abuse and rape of a female prisoner. In the four continuing cases, 59 members of the Gendarmeria

were involved or mentioned. The 35 completed cases had resulted in the dismissal of 5 officers, the fining of 20 others, reprimands to 5, dismissal of cases against 24 officers and the clearing of 5 others.

15. In a letter dated 29 May 1998, the Government provided information on the proceedings against members of the Carabineros police investigations section in the case of Raúl Osvaldo Palma Salgado, who was reported to have died on 12 January 1998 after being arrested and tortured. The internal administrative investigation had resulted in the dismissal of a lieutenant and three sergeants. Criminal proceedings against these officers on charges of unlawful coercion leading to death were at the stage of confidential investigation in the second military court in Santiago.

16. In a letter dated 15 November 1999, the Government reacted to the information forwarded by the Special Rapporteur in his letter of 15 September 1999.

17. The letter from the Government reports that the new make-up of the Supreme Court had resulted in the adoption of legal precedents which facilitated the investigation of past human rights violations connected with the issue of impunity. The Government states that proceedings cannot be dismissed until the investigation has been completed, a decision taken that a punishable act has been committed and the offender identified (case of Pedro Enrique Poblete Córdoba, Carlos Humberto Contreras Maluje, Alvaro Miguel Barrios Duque and Marcos Quiñones Lembach). Similarly, it is established that amnesty is not applicable between 11 September 1973 and 11 September 1974, so that the courts must refrain from granting amnesty in any case involving serious violations of the Geneva Conventions of 1949 (cases of Pedro Enrique Poblete Córdoba and Marcos Quiñones Lembach).

18. In the same letter, the Government indicates that the Supreme Court has ruled that amnesty and prescription are not applicable to offences of an ongoing nature, such as abduction and unlawful or arbitrary arrest (cases of Pedro Enrique Poblete Córdoba, Carlos Humberto Contreras Maluje and Marcos Quiñones Lembach and the case of the disappeared detainees of Parral). In addition, since the defence of res judicata in criminal proceedings requires both the unlawful act and the person accused of committing it to be identified, res judicata will not apply, even when the proceedings have been dismissed due to extinguishment of criminal responsibility through prescription or amnesty (case of Alvaro Miguel Barrios Duque). The Supreme Court holds that grounds for extinguishment of criminal responsibility, prescription of criminal proceedings and amnesty are personal in nature (case of Carlos Humberto Contreras Maluje). Finally, in 1999 the Supreme Court ruled on approximately six cases involving competence disputes between the military and ordinary courts, finding in favour of the latter in all six cases (case of Jorge Müller and Carmen Bueno, case of José Luis Baeza Cruces and case of Leopoldo Muñoz Andrade et al.).

19. In the same letter the Government included a list of persons prosecuted in human rights cases relating to the "caravan of dea... , the murder of Alfonso Carreño and the disappearance of Baeza Cruces, the case of "operation Albania", the disappearance of Ramírez Rosales, the Tucapal Jiménez case, the Vega Monumental de Concepción case and the Parral case. The Government also supplied information concerning cases settled by the courts: the Letelier

case, the Parada Guerrero case, the Quemados case, the Fernández López case, the Cheuquepan Levimilla case, the Godoy Echegoyen case, cases involving protests and cases involving abuses of power

Colombia

Follow-up to the recommendations made by the Special Rapporteur on torture and the Special Rapporteur on extrajudicial, summary or arbitrary executions subsequent to their visit to Colombia in 1994 (E/CN 4/1995/111)

20. On 29 October 1996 the Special Rapporteurs reminded the Colombian Government of recommendations made after their visit to the country in October 1994 and requested information on measures taken to implement those recommendations, particularly in connection with certain aspects of the recommendations detailed in a questionnaire. On 8 January 1997 the Government replied to this request. During 1997 non-governmental sources provided the Rapporteurs with information relating to subjects covered by the recommendations and to the Government's comments. The recommendations (E/CN 4/1995/111), a summary of the Government's reply and a summary of the information received from non-governmental sources were included in the 1997 report of the Special Rapporteur on the question of torture (E/CN 4/1998/38, paras. 52-82).

21. On 3 June 1998 the Colombian Government updated the replies that had been furnished in 1997 with fresh, more detailed information, as summarized below.

22. In response to the Rapporteurs' recommendation that, in keeping with the obligation under international law, exhaustive, impartial investigations be conducted into all allegations of extrajudicial, summary or arbitrary executions and torture to identify, prosecute and punish those responsible, grant adequate compensation to the victims or their families and take all appropriate measures to prevent the recurrence of such acts, the Government provided the following information.

23. The National Human Rights Unit, which was established to centralize institutional efforts to investigate and punish perpetrators, has helped to raise awareness of the need to censor such acts and improve institutional response mechanisms.

24. The Procurator-General's Office (Procuradoria General) has adopted over 100 decisions punishing administrative staff for human rights violations; it is empowered to take over investigations deserving of its attention from the inspectors working in any branch of the administration.

25. The draft revised Military Criminal Code includes the Constitutional Court's decision to limit the military's powers and transfer crimes against humanity from military to the ordinary courts. The gradual application of the decision had resulted in the transfer, at the request of the Procurator-General, of 141 cases by March 1998.

26. In fulfilment of its obligation to compensate victims, the Government provided fuller replies than those previously given to the Rapporteurs and also responded to comments on information the Rapporteurs had received from non-governmental sources.

27. In that connection, the Government recalled the constitutional and legal basis of compensation, pursuant to article 90 of the 1991 Political Charter of Colombia, which falls under the State's responsibility and dates back to the last century, and articles 77 and 78 of the Administrative Disputes Code and Act No. 288 of 1996.

28. Act No. 288 of 1996, which the Government had already commented on in its earlier reply to the Rapporteurs after non-governmental sources had highlighted shortcomings in it, establishes methods for compensating victims of human rights violations by virtue of the provisions adopted by international bodies, more specifically the Inter-American Commission on Human Rights and the Human Rights Committee (E/CN.4/1998/38, paras. 55-59).

29. Non-governmental sources had pointed out that the Act was confined solely to financial compensation and did not envisage, for instance, social redress, the clearing of the names of the victims and fulfilment of the State's obligation to guarantee the rights to truth and justice. In so doing, the Act limited the scope of recommendations for compensation made by international bodies and excluded equally binding recomendations from other intergovernmental bodies for the protection of human rights such as the International Labour Organization and the Committee against Torture (E/CN.4/1998/38, para. 56).

30. In response, the Government explained that the fact that the Act focused on the compensation of victims did not mean that the areas mentioned in the allegations were disregarded in other norms and mechanisms. Social redress was considered by the Government case by case when the fabric of society was thought to have been affected, as, for example had happened in the cases of the violent eruptions in Trujillo, Valle, and the massacres in los Uvos and Caloto, Cauca, and the district of Villatina in Medellin.

31. Recommendations by international organizations, limited in Act No. 288 to the Inter-American Commission on Human Rights and the Human Rights Committee, were included partly because of their quasi-judicial procedures, their roots in international agreements and the fact that they could be invoked by any person or non-governmental organization. The Government also pointed out that the Committee of Ministers created under the Act had issued 25 resolutions on 16 cases of human rights violations, benefiting over 100 people. Truth and justice were monitored through other mechanisms under domestic law.

32. In the area of civil justice, the Rapporteurs recommended the allocation of adequate resources and that judicial police functions be carried out exclusively by a civilian entity, namely the technical unit of the criminal investigation police. They also recommended that the provincial and departmental branches of the Procurator-General's Office be given sufficient autonomy and resources, and that, as long as the regional justice system existed, crimes falling under its jurisdiction should be clearly defined to guarantee the rights of defendants and eliminate existing restrictions. Effective protection should be provided for all members of the

judiciary and the Public Prosecutor's Office and any threats and attempts on their lives should be investigated. Likewise, provision should be made for the effective protection of witnesses in proceedings involving human rights violations.

33. Comparatively large budget increases had been allocated to the justice system following the establishment of the Office of the Attorney-General of the Nation (Fiscalía General de la Nación). The Technical Investigation Unit, which had been assigned the functions of a judicial police force, was part of the Attorney-General's Office and was overseen by judges and public prosecutors, in accordance with article 313 of the Penal Code. Article 312 of the Code made an exception, allowing actions to be brought directly when criminals were caught in flagrante delicto. However, when it came to criminal investigation, the Unified Action Groups for the Freedom of Individuals (GAULAs) operated under the instructions of the Attorney-General's Office, the point of that arrangement being to guarantee that their actions were in keeping with the law and duly judicially sanctioned. Members of the Judicial Police Section (SIJIN) and the National Judicial Police and Investigation Department (DIJIN) of the National Police and the Administrative Security Department also performed judicial police functions under the supervision of a public prosecutor once criminal proceedings started.

34. Regarding the autonomy of provincial and departmental branches of the Procurator-General's Office, the Government said that since the system started in 1991 an Administrative Coordinator had been operated in 27 of the 32 departmental branches with budgetary resources provided directly from the General Treasury of the Nation. The system had not been adopted at the other five branches because of their size. Additionally, monitoring bodies have been provided with increased financial support.

35. The Government announced that the regional justice system had come to an end in 1999; an approved plan to that effect had been forwarded to the Congress as a matter of urgency. Furthermore, the Government was "aware that although the regional justice system had ended, the criminal classification of terrorism would have to be redefined". This would be part of the task of the Committee for the Reform of the Penal Code, the Criminal Procedure Code and the Penitentiary Code. With respect to allegations from non-governmental sources that the previous rules were still in force owing to the Constitutional Court's decision striking down the statutory provisions providing for the anonymity of witnesses and prosecutors (E/CN.4/1998/38, para. 58), the Government explained that the 1991 Decree-Law was subject to the same court decision, the Attorney-General's Office could guarantee anonymity in individual cases, substantiating its actions. However, anonymity was not extended to judges. The Court had found the rule preventing law-enforcement officials from acting as secret witnesses unjustifiable and discriminatory, and therefore unconstitutional.

36. Action had been taken to guarantee the protection of members of the judiciary and the Public Prosecutor's Office: installation of security equipment and devices, such as closed circuit television and metal detectors, provision of armoured vehicles, escorts and outriders for high-risk officials, and training for escort personnel, judges, prosecutors and attorneys potentially at risk. Information was given on the continuation of the training programme and the supply and installation of basic security features at courts and judicial premises throughout the country.

37. The Rapporteurs had recommended that the remains of those who might have been victims of extrajudicial, summary or arbitrary executions should be exhumed and examined by forensic experts. The Government reported that the Attorney-General's Office, through the Criminal Investigation Department and the National Institute of Legal Medicine and Forensic Sciences, systematically exhumed unidentified bodies. Exhumations were also performed by forensic experts in all cases of violent death, in accordance with article 335 of the Penal Code.

38. As to the military justice system, the Rapporteurs recommended that the Code be reformed to make a clear distinction between those who carried out operational activities and the military judiciary, who should not be part of the normal chain of command. It should provide for verification that those responsible for the investigation and prosecution of cases were entirely independent of the normal military hierarchy and should eliminate the principle of due obedience in cases of execution, torture and enforced disappearances, crimes which should be explicitly excluded from military jurisdiction. It should permit claims for criminal indemnification, and conflicts of jurisdiction between civil and military courts should be resolved by independent judges.

39. The Government reported that it had sent to Congress a bill on the structural reform of the military justice system. Contrary to the previous rules, under which the function of acting as judge fell to the accused's hierarchical superior, the bill requires judges to be dedicated exclusively to the administration of justice, and the military criminal justice system to be organizationally independent of the chain of command. The Government was also framing a draft statute supplementing the draft Military Criminal Code which would require judges or magistrates in the military criminal justice system to be qualified criminal lawyers.

40. On the principle of due obedience as set forth in article 91 of the Political Charter, the draft Military Criminal Code establishes that "members of the Armed Forces are duty bound both to obey legitimate orders issued by their superiors subject to the requisite legal formalities and not to obey orders which are self-evidently illegal", thus not exonerating them from responsibility in the event of presumed violations of fundamental human rights.

41. Action for criminal indemnification was also a new addition to the draft Military Criminal Code, allowing the claimant for indemnification (parte civil) to appeal against rulings waiving or diminishing the responsibility of the accused and to request that evidence be produced.

42. The draft also establishes that cases of torture, enforced disappearances, genocide, crimes that constitute gross human rights violations, crimes against sexual freedom and human dignity and the offence of aiding and abetting are to be tried on the basis of the Penal Code, not the Military Criminal Code. Crimes against humanity still fall under ordinary criminal jurisdiction. Additionally, the draft Code makes offences of enforced disappearance and genocide, increases the penalty for torture and lays down firm rules for the protection of human life and physical integrity, especially with regard to crimes of enforced disappearance (committed by individuals or public servants), genocide and torture. To come into line with internationally recognized human rights principles, fast-acting, flexible mechanisms have been sought for dealing with all such cases.

43. The Government explained that conflicts of jurisdiction are decided by a judicial body independent of the Government. The Constitutional Court's restriction on the scope of military authority has been incorporated into the draft Military Criminal Code, which defines "service-related crimes". The draft Code gives the ordinary courts jurisdiction over the aforementioned human rights violations.

44. Regarding justice for past offences, the Government had accepted the recommendations of the Special Investigative Commission into the violent events that took place in Trujillo, recognizing the responsibility of the State, and was honouring its undertakings to that Commission. It believed that amicable settlements involving the Government, investigative bodies and representatives of the victims' families were an effective mechanism in that regard.

45. On the suspension from active service of members of the security forces under investigation by either the Procurator-General's or the Attorney-General's Office, the Government indicated that disciplinary decisions by the Procurator-General's Office against law-enforcement officers and others were rigorously enforced.

46. As to the disarming and disbanding of paramilitary groups, the National Human Rights Unit, established in 1994, was described as a judicial mechanism to counter paramilitary activities, the Attorney-General's Office having done much to capture and prosecute such groups. The Government mentioned the President's message to the nation denouncing the actions of groups that took justice into their own hands and urging the State security bodies to bring them to book.

47. The Government reported the passage of Act No. 418, amending and extending Acts Nos. 104 of 1993 and 241 of 1995, under which individuals may be deemed already to have served their sentences in conflicts settlements or conflict humanization cases, provided they or the groups they belong to abandon their activities and are reintegrated into society. Decree No. 2 895 of 3 December 1997 set up a Search Squad to coordinate action by the State against groups that take the law into their own hands. Together, the Attorney-General's Office and the security forces were attempting to execute 374 arrest warrants. According to a report by the Ministry of National Defence, 48 members of paramilitary groups were killed and 231 arrested and turned over to the Attorney-General's Office in 1997 and 1998 for alleged links with such groups.

48. The possession of firearms by civilians was restricted under Decree No. 2 535 of 1993 and regulated by Decree No. 1 809 of 1994. The Government pointed out that outlaws had access to large sums of money through kidnapping, extortion and drug-related activities which enabled them to acquire weapons on the international black market and smuggle them into the country. The Government hoped for greater cooperation with exporting countries in its efforts to bring the situation under control. Nearly 80 per cent of the weapons in the possession of special surveillance and private security services had been handed in.

49. On the need for greater awareness among top political and military figures about the legitimacy and need for civic organizations, the Government said it regretted the events that had cost human rights workers their lives. It recognized the legitimate work performed by human rights non-governmental organizations (NGOs) and, in a presidential directive, had called on

public servants to pay due attention to their reports and proposals. Additionally, it had drawn up policies for the protection of human rights workers, women, children and the Afro-Colombian and indigenous communities.

50. Through the Ministry of the Interior, the Government had started a Special Programme for the Protection of Human Rights Defenders including preventive and special protection measures, as required, under which the offices and staff of several leading NGOs were protected. The Government intended to step up the programme established to protect the heads of social and political organizations and non-governmental human rights activists with the help of State security bodies. Witnesses of human rights violations were protected jointly with the Offices of the Attorney-General and the Procurator-General. Detailed information was given on the rules governing the programme, the Regulations and Risk Evaluation Committee and how it functions. According to the Government, the Committee had evaluated and taken action in a total of 29 cases between August 1997 and February 1998.

51. At a meeting between the President and human rights NGO representatives, measures adopted had included conferring upon the Procurator-General's Office the right to review and correct information on human rights activists in the intelligence archives of various State bodies. Additionally, decisions were taken on the composition of specialized security bodies, an increase in the programme's budget and strict follow-up of Presidential Directive No. 011, which instructs public servants to refrain from making derogatory remarks about NGOs and announces penalties for failure to comply.

52. Regarding protection of specially vulnerable groups, the Government indicated its commitment to women and children as evidenced in its cooperation with the related international machinery and its domestic legislation. It had passed Act No. 360 of 1997, which lays down heavier penalties for sexual offenders, and publicized the reforms that had been taking place. The Attorney-General's Office had drawn up plans for special purpose units and squads in cities with a high incidence of sexual crime; five were in operation. Since their establishment the number of complaints lodged had risen, especially in Santa Fé de Bogotá. In addition, the publication "Children's Time" (El Tiempo de los Niños) had been updated and the possibility of deferring university students' military service was now regulated under Act No. 418 of 1997. Those under 18 would do their military service in areas where there was no armed conflict.

53. Act No. 104 of 1993 had been extended and amended to include protection for individuals who have laid down their arms and wish to return to civilian life. The Reintegration Programme, which falls within the ambit of the peace agreements signed between the Government and various guerilla movements, is administered under the Security and Protection Schemes for leaders whose lives are at risk. The Government also provided information on protection services and how they are currently allocated.

54. A programme against "social cleansing" had been launched, through the Social Solidarity Network, in 17 cities, comprising preventive measures and information on human rights. Steps had been taken to dismantle organizations trafficking in human organs, women and children. The Inter-Institutional Committee Against the Trafficking of Women and Children and the Ministry of Justice focused on prosecuting perpetrators of such acts, coordinating international police action and raising awareness among the general public and the authorities.

55. Regarding street children in particular, the Plan of Action for the Prevention and Care of Street Children and Adolescents was used as a means of raising social awareness. The office of the First Lady of the Nation, inspired by the World Health Organization model, was running a project entitled "Analysis and Improvement of the Living Conditions of Street Children" Act No. 418 of 1997 approved the Good Citizenship Code, which completely revolutionizes the relationship between the public and the police, decriminalizing anti-social behaviour now considered to be a simple misdemeanour, and changing current thinking to highlight the preventive, reformist side of the Code over its punitive aspect.

Mexico

Follow-up to the recommendations by the Special Rapporteur on torture contained in the report on his visit to the country in August 1997 (E/CN.4/1998/38/Add.2)

56. Following his visit to the country from 7 to 16 August 1997, the Special Rapporteur submitted a number of recommendations to the Mexican Government with a view to correcting the problems observed during his visit (E/CN.4/1998/38/Add.2, paras. 71-84). Unfortunately, the Government has not provided information on the measures it has taken to follow up and implement these recommendations although it has transmitted to the Rapporteur information on cases of torture being dealt with by various bodies, the investigations carried out and their results, and replies on individual cases mentioned in the report and summarized below.

57. In its letter of 12 January 1998, the Mexican Government transmitted to the Rapporteur information provided by the Federal Judicature Council on 15 cases of torture which were tried between 1995 and 1997. The results of these trials were 10 condemnations and 4 acquittals; 2 cases were at the pre-trial proceedings stage. It noted that few cases of torture were brought before the federal courts, possibly because of: a general decline in the number of such cases in the country since the entry into force of the Federal Law of 27 December 1991 on the prevention and punishment of torture; the restrictive definition of the offence of torture, in that proof of intent to torture with a view to obtaining a confession and proof that the victim has suffered serious injury has to be provided; the sophistication of new methods of torture which do not leave physical evidence; the difficulty of providing evidence; the fact that the victims do not know how to have their rights enforced, fear on the part of the victims; and lack of confidence in the administration of justice.

58. In its letter of 12 February 1998, the Mexican Government provided information on: the number of recommendations (18) received and recorded by the Office of the Attorney-General of the Republic since the establishment of the National Human Rights Commission concerning allegations of torture; the number of persons (54) who have been charged with the offence of torture as a result of such recommendations, together with details of the charges; how many of these persons (6) have been sentenced; and the number of arrest warrants (6) executed in connection with the offence of torture by the Office of the Attorney-General of the Republic. It also provided information on the stage reached in preliminary investigations of allegations of torture carried out pursuant to the recommendations.

59 The Special Rapporteur has received updated information on cases of torture dealt with by various bodies, on the investigations carried out and on their results from the fifth annual report of the Human Rights Commission of the Federal District (CDHDF) covering the period between October 1997 and September 1998

60 According to this source, the number of complaints received during this period by CDHDF alleging human rights violations was 3,384 (63 89 per cent of the total number of complaints received) Of these, 461 concerned violations of the rights of prisoners, 401 injuries, 127 threats and 398 delays in the administration of justice

61 The specific bodies that were mentioned most frequently as allegedly being responsible for human rights violations were, in the case of the Federal High Court of Justice (146 complaints) the office of the President, the thirty-third, ninth, fifteenth, twenty-fourth and fifty-eighth criminal courts, the twenty-seventh civil court, the twenty-first family court, the thirty-second magistrates' criminal court, and the forensic medical service In the case of the Procurator's Office of the Federal District (1,610 complaints), the body against which most complaints were directed was the Judicial Police (491 complaints), followed by the Delegación Regional Cuauhtémoc, the forty-fourth branch office of the Public Prosecutor's office in Iztapaplapa, the Office for Coordinating the Recovery of Stolen Vehicles, the fiftieth branch office of the Public Prosecutor's Office in Alvaro Obregón, the Directorate-General for the Investigation of Offences against Honour, Professional Responsibility and Relations with Public Officials, the third branch office of the Public Prosecutor's office in Cuauhtemoc, the fourth branch office of the Public Prosecutor's office in Cuauhtémoc, and the regional Gustavo A Madero office The Government of the Federal District received 1,807 complaints, the largest number (676 complaints) being directed against the Public Security Department, followed by the Pre-trial Detention Directorate of Varonil Norte and Varonil Sur, the Directorate-General for Prisons and Social Rehabilitation Centres, the Pre-trial Detention Directorate of Varonil Oriente, the Directorate-General for Health Services, the Administration of the Santa Martha Acatitla penitentiary, the Delegación Politica Cuauhtémoc, the Administration of the Tepepan Women's Centre for Social Rehabilitation, and the Administration of the Oriente Women's Pre-trial Detention Prison

62 CDHDF stated that 98 6 per cent of the complaints had been processed and disposed of, most of them (62 96 per cent) as a result of a solution arrived at during court proceedings Detailed information was also provided on the action taken to determine the appropriate body to which complaints should be referred, as required by the CDHDF Law and on the time taken to process the complaints that had been disposed of, which should normally be 12 months from the date of their submission This information was accompanied by statistics indicating the outcome and duration of the proceedings, broken down by the organs handling the complaints, as well as the nature of the complaints, of the complainants and their socio-economic profile

63 As for the programme to combat impunity, it was stated that during the period in question the work of CDHDF resulted in the imposition of 163 disciplinary and/or criminal sanctions The report also indicates the names and positions of the officials sanctioned and the nature of the sanctions imposed Furthermore, it summarizes its recommendations, 70 per cent of which were acted on during the period under consideration

64. In its letter of 14 July 1998, the Government transmitted to the Special Rapporteur documents listing the papers on the question of torture in Mexico presented at a forum organized by the Human Rights Commission of the Federal District.

65. The first of these papers, entitled "La Fatalidad Derrotada" by Doctor Luis de la Barrera, highlights the progress made since the constitutional reform of 1993 and the recent Federal Law on the prevention and punishment of torture which does away with the probative value of a confession made to the police. This legal reform, together with the creation of the Office of Ombudsman, had put an end to the complete impunity enjoyed by persons responsible for such offences. The author recognized that "much still remained to be done" and in particular drew attention to the prolonged nature of preliminary investigations into allegations of torture. Lastly, he defended the work being done by public human rights protection bodies in connection with torture and other human rights violations in view of their exemplary efficiency as opposed to those who were in favour of the exclusive jurisdiction of the federal judiciary.

66. The second of these papers, entitled "Una acción renovada contra la tortura", by Patricia Marin Fagoga and submitted on behalf of the NGO Action of Christians for the Abolition of Torture (ACAT) recognizes the major - albeit still inadequate - efforts made in Mexico City to combat torture. In particular, it is noted that, although torture was not practised systematically in Mexico and that citizens were gradually becoming aware of their right to physical and psychological integrity, denial of justice and the absence of compensation were still the rule. In that connection, ACAT drew attention to various factors that made it difficult to eradicate torture, highlighting the following: the close working and institutional relationship prevailing in the offices of the public prosecutor and police associations together with the fact that the Public Prosecutor's Office characterizes acts of torture as minor offences, on a level with the abuse of authority or assault and battery, the fear of the victims to lodge complaints, the fact that the physician assigned to the Public Prosecutor's Office fails to certify injuries immediately and properly, the lack of staff and resources required to identify cases of psychological torture, the fact that, in a large number of cases, the detainee is not informed of his rights so that in practice the officially appointed lawyer is not present and is simply required to sign various documents at the time the statement is finalized. Lastly, because the victim lacks confidence, he tends to complain to various public human rights bodies and not to the Public Prosecutor's Office, despite the fact that the investigations carried out by such bodies are not taken into account, except in an incidental manner, by the Public Prosecutor's Office when it conducts its own preliminary investigations.

67. In view of the above, ACAT-Mexico proposed that the Public Prosecutor's Office should do everything possible to protect the physical and psychological integrity of the complainant and his relatives - for example by installing a call-tracing device or by making a thorough investigation of allegations of threats or torture. It also proposed that, until such time as problems connected with the administration of justice are solved, a legal department independent of the executive should be established to conduct and coordinate preliminary investigations and be provided with adequate staff and financial resources. Thirdly, the investigation of cases should be speeded up, legal time-limits laid down for the completion of preliminary investigations and sanctions provided for if the deadlines are not complied with. Furthermore, an independent system should be created for the inspection of all places of detention by members of human rights NGOs headed by State committees and the National Human Rights

Commission. In addition, ACAT drew attention to the recommendation by the Special Rapporteur on torture concerning the probative value that should be accorded to the investigations carried out by these bodies. Lastly, it proposed that article 3 of the Law on the prevention and punishment of torture should be reformulated so as to take into account injuries consisting in the "neutralization of the personality of the victim and the diminution of his aptitudes without causing physical or psychological pain", and recommended the action that should be taken immediately by the judge if a suspect says that his statement was obtained by torture.

68. In its letter of 15 March 1999, the Government provided information on the individual cases that the Special Rapporteur had included in his report on his visit to Mexico (E/CN 4/1998/38/Add 2, annex). Its replies are summarized in the following paragraphs.

69. Amado Hernández Mayorga and Andrés Álvarez Gómez were allegedly arrested and tortured by members of the Public Security Police on 27 January 1997 in the community of Lázaro, Sabanilla. The Government stated that no complaint had been lodged and that it had found no reference to this matter in the files of the National Human Rights Commission or the Human Rights Commission of the State of Chiapas.

70. Gonzalo Rosas Morales was allegedly arrested on 8 March 1997 and tortured by Judicial and Public Security Police forces in Palenque, State of Chiapas. In agreement with the Government, an inquiry was opened into the case of Gonzalo Rosas Morales by the Human Rights Commission of the State of Chiapas which submitted a recommendation on 20 October 1997. After being challenged, the National Commission confirmed the recommendation on 8 July 1998.

71. Mariano Pérez González, Mariano González Díaz and Pedro González Sánchez were allegedly arrested on 14 March 1997 in the indigenous community of San Pedro Nixtalucum, State of Chiapas, together with about 20 other persons, and subsequently tortured by members of the State Judicial Police. According to the Government's report, elements of the Public Security Police arrived in the community of San Pedro Nixtalucum on 14 March 1997 because a group of unknown persons had assaulted four persons. After arresting the suspects the police were ambushed, as a result of which 4 of their number were injured, 3 of the group of aggressors were left dead and 27 persons were arrested, among them Manuel Pérez González. Criminal proceedings were brought against 23 other persons. An investigation was launched by the Human Rights Commission of the State of Chiapas into allegations of ill-treatment but the representatives of the group of persons arrested stated that they did not want the Commission to take action since they had their own lawyer. As regards Mariano González Díaz, an investigation was launched on 12 May 1997 by the Human Rights Commission of the State of Chiapas, which referred the case to the National Human Rights Commission in August 1997.

72. Domingo Gómez Gómez, aged 21, was allegedly arrested and tortured by members of the State Judicial Police on 18 July 1997 in San Cristóbal de las Casas, State of Chiapas, as the person responsible for the disappearance of two persons. The Government stated that the National Human Rights Commission had initiated an investigation on grounds of arbitrary detention, attacks against private property and injury. The investigation came to an end on 31 July 1998 because the complaint was withdrawn.

73. Juan Martínez Jácquez was allegedly arrested and tortured on 7 October 1996 by five members of the army at the Rancho El Manzano, section San Juan Nepomuceno, State of Chihuahua. It is said that a complaint was lodged with the chief of the Preliminary Investigations Office in Hidalgo del Parral. The Government stated that it had found no reference to the case.

74. Valentín Carrillo Saldaña was allegedly tortured by members of the army (which denied having arrested him) on 12 October 1996 in San Juan Nepomuceno, municipality of Guadalupe y Calvo, State of Chihuahua. His lifeless body, showing obvious signs of violence according to the autopsy carried out, was found on 17 October 1996. The Government stated that criminal proceedings had been instituted before the military court against seven members of the army. All but two were eventually acquitted. One had been sentenced to one year's ordinary imprisonment and the other is to be court-martialled in due course. A complaint was brought before the Inter-American Human Rights Commission which, on 20 January 1999, arrived at an amicable settlement according to which the relatives of Valentín Carrillo Saldaña were to be compensated and proceedings initiated against the person directly responsible, who was being held in preventive detention.

75. Alejandro Pérez de la Rosa, arrested on 22 December 1999, was allegedly tortured by members of the Federal District Judicial Police in the Federal District in order to make him sign a confession. According to the Government, the investigation carried out by the Human Rights Commission revealed that Alejandro Pérez said that he had been assisted by an officially appointed lawyer and had not at any time been pressured by the Judicial Police. Official experts had also declared, on the day of his detention, that Alejandro Pérez was psychologically capable of making a statement. He had at all times received adequate medical care and had refused hospitalization when it had been recommended. Investigation of the complaint was completed on 3 January 1997.

76. Cornelio Morales González was arrested in Alameda Central on 18 June 1997 and transferred to the Judicial Police of the Federal District in Arcos de Belem, where he was allegedly tortured. The Government stated that an investigation had been carried out by the Human Rights Commission of the Federal District on 23 June 1997. The medical certificate indicated the presence of various injuries but the investigation was brought to an end on 6 March 1998 owing to the complainant's failure to appear despite being summoned to make a statement on three occasions.

77. Antonio Aguilar Hernández was arrested on 1 September 1997 in the Barrio Asunción Tlacoapa of the Federal District, transferred to a place he could not identify and tortured by persons suspected of belonging to the security forces. The Government stated that, after a complaint had been brought in respect of his disappearance and probable arbitrary detention, the National Human Rights Commission had launched an investigation, made the necessary inquiries, and confirmed the physical integrity of the victim on the basis of a medical certificate. The investigation came to an end on 23 November 1997.

78. Teodoro Juárez Sánchez, Ramiro Jiménez Sonora, Lorenzo Adame del Rosario and Jerónimo Adame Benítez were allegedly arrested and tortured on 1 and 4 July 1996 in Sierra de Coyuca de Benítez, State of Guerrero, by members of the army. The Government stated that the

National Human Rights Commission had launched an investigation into these cases and in respect of other members of the Organización Campesina de la Sierra Sur. This investigation was concluded on 10 October 1997 when a recommendation was addressed to the Military Procurator-General that an inquiry should be opened to determine the responsibility of the lieutenant (parachute infantry) and member of the Military Judicial Police, the Captain (parachute infantry) and member of the Military Judicial Police and the other members of the army implicated. This recommendation was acted on in part, preliminary investigations being launched in order to establish responsibility. The recommendation brought to an end the National Human Rights Commission's inquiry concerning Pascual Rodriguez Cervantes, Agustin Ojendiz Cervantes and Virginio Salvador Abelino, who had allegedly been arrested and tortured on 16 April 1997 by members of the State Judiciary Police and members of the army in Jojutla, Morelos. Moreover, the cases of Hilaro Atempa Tolentino, Anacleto Tepec Xinol and Pablo Gaspar Jimón, who had allegedly been arrested and tortured by members of the army on 25 May 1997, in Xocoyozlintla, municipality of Ahuacuotzingo, State of Guerrero were all covered by the same investigation.

79. José Nava Andrade, arrested on 2 July 1996 in Chilpancigo, State of Guerrero, by agents of the Ministry of the Interior, was allegedly tortured for four days. The Government stated that the National Human Rights Commission had launched an investigation into this case of alleged torture, illegal detention and enforced disappearance. The investigation was brought to an end on 31 January 1997 when José Nava was found alive and showing no evidence of having been tortured.

80. Cleofás Sánchez Ortega, Pedro Barrios Sánchez, Gonzalo Sánchez Mauricio, Gervacio Arce Gaspar, arrested in Coyuca de Benitez on 7 July 1996 by members of the State Judicial Police, were allegedly transferred to Chilpancingo, State of Guerrero, and tortured before being brought before the Public Prosecutor on 19 July 1996. The Government stated that separate investigations had been conducted into these cases by the National Human Rights Commission - those of Cleofás Sánchez and Gervacio Arce are in abeyance pending resolution. The investigations concerning Pedro Barrios and González Sánchez were brought to an end by judicial decision during the proceedings on 3 and 14 May 1998 respectively.

81. Marcelino Zapoteco Acatitlán, aged 17, and Pedro Valoy Alvarado, arrested on 8 July 1996 in Chilpancingo, State of Guerrero, by the Preventive Police were allegedly transferred to and tortured in module 3 of the Colonia Indeco Municipal Police. Marcelino Zapoteco, was reportedly beaten up by another inmate and died a few days later. The Government stated that the Human Rights Commission of the State of Guerrero had investigated the case and submitted its recommendation. In the case of Marcelino Zapoteco, the recommendation attributed responsibility to and sanctioned two members of the Municipal Police of Chilpancingo Guerrero and the Director of the Supervisory and Custodial Staff of the State Reform School for Juvenile Delinquents. It was also recommended that an inquiry should be carried out to establish whether the hospital's medical staff had been negligent in providing medical care to the minor Marcelino Zapoteco and to determine the possible causes of his death. This recommendation was accepted by the authorities and administrative measures were accordingly taken, including the removal of the Director of the Supervisory and Custodial Staff from office.

82. Andrés Tzompaxtle Tecpile, Luis Gonzaga Lara, Magencio Abad Zeferino Domínguez, Abelino Tapia Marcos, José Santiago Carranza Rodríguez, Juna Leonor Bello, Leonardo Bardomiano Bautista, Martin Barrientos Cortés, Marcos Ignacio Felipe, Bertín Matías Sixto, Juan Julián González Martínez and Faustino Martínez Basurto were allegedly arrested and tortured at various times and by various elements of the State security forces in the State of Guerrero. All these cases were covered by a recommendation of the National Human Rights Commission transmitted on 20 October 1997 to the Military Procurator-General concerning arbitrary detention, injury and torture, searches of premises, threats, intimidation and enforced disappearances. The recommendation requested the Military Procurator-General to open preliminary investigations in each case so that any unlawful acts that might have involved the army could be investigated and appropriate criminal and administrative proceedings initiated in the event that the persons responsible were identified. This recommendation was acted on in part. It was found that officials of the Ministry of Defence had probably played a part in their arbitrary detention and torture of Luis Gonzaga, Magencio Abad Zeferina and the others and the Military Procurator-General was requested to launch an investigation with a view to imposing criminal or administrative penalties on those responsible. This investigation is under way. The Inter-American Commission on Human Rights adopted measures to protect Magencio A. Zeferino, who had received death threats following his statement to the military authorities. He was reassigned elsewhere on the basis of an exchange. The attempt made to reach an amicable solution before the Inter-American Commission on Human Rights has so far been unsuccessful owing to the difficulty of verifying information following initiation of a dialogue with the NGO which had brought the case to obtain clarification.

83. Alfredo Rojas Santiago, arrested on 16 February 1997, in the community of La Soledad, municipality of Xochistlahuaca, State of Guerrero, by members of the State Judicial Police was allegedly tortured for 30 hours. The Government stated that the Human Rights Defence Commission of the State of Guerrero had undertaken the necessary investigations but that subsequently the case had been referred to the National Human Rights Commission. The case was under examination up to September 1998.

84. Emilio Ojendiz Morales, José Avelino Cervantes, Juan Paulino Cervantes, José Avelino Pérez, Juan Salvador Avelino, José Mariano Avelino and José Avelino Salvador, arrested on 3 and 6 April 1996, were allegedly tortured and ill-treated in San Miguel Ahuelican, municipality of Ahuacuotzingo, by members of the army and the Federal Judicial Police. The Government stated that an investigation had been launched by the National Human Rights Commission. The Office of the Attorney-General of the Republic opened an inquiry into offences against health and violations of the federal law as a result of which Juan Salvador Avelino was placed in the Reform School for Juvenile Delinquents in Chilpancingo, the other detainees were released. The National Human Rights Commission's investigation was brought to an end on 30 June 1997, since the Commission took the view that the case did not involve human rights violations, and the complainant was told to lodge his complaint with the appropriate authorities.

85. Marcelino Avelino Felipe, Pedro Avenlino Felipe and Abelino Tapia Morales were allegedly detained and tortured on 6 April 1997 by members of the army in Alpoyelcatcingo, municipality of Ahuacuotzingo, State of Guerrero. The Government stated that the National

Human Rights Commission had been unable to find any previous reference to this case. Moreover, the case of Abelino Tapia Morales is probably that of Abelino Tapia Marcos, on which the Government has provided information, as indicated in this report.

86. Juan Cervantes Paulino, Marco Cervantes Paulino and Martin Garcia Salvador were allegedly arrested and subsequently tortured on 14 April 1997 by personnel of the 35th military zone in Cotlamaloya, municipality of Atlixtac, State of Guerrero. The Government stated that the investigation carried out into the alleged enforced disappearance had been brought to an end by a judicial decision during the trial on 30 August 1997.

87. Eulalio Vázquez Mendoza was allegedly arrested and tortured on 17 April 1997 by members of the State Judicial Police in Cuonetzingo, municipality of Chilapa de Alvarez, State of Guerrero. The Government stated that no complaint on the subject had been found either by the National Human Rights Commission or by the Human Rights Commission of the State of Guerrero.

88. Gabriel Salvador Concepción was allegedly arrested and tortured by members of the army and the State Judicial Police on 20 April 1997 in Alpoyencancingo, municipality of Ahuacuotuzingo, State of Guerrero. The Government stated that the National Human Rights Commission had conducted an investigation into allegations of torture, arbitrary detention and enforced or involuntary disappearance; this investigation ended on 23 July 1997 since it was considered that the case did not involve human rights violations and it was referred to another body.

89. José Carrillo Conde was allegedly arrested and tortured on 4 January 1996 in Tepoztlán State of Morelos, by members of the State Judicial Police. The Government stated that the National Human Rights Commission had conducted an inquiry and on 3 December 1997 had addressed a recommendation to the Governor of the State of Morelos, by whom it had been rejected, as well to the Department of the Environment, Natural Resources and Fisheries and also to the Agrarian Reform Department. The latter launched an administrative inquiry which found the complaint to be inadmissible. The former also opened an administrative inquiry which was suspended pending an investigation.

90. Laurencio Guarneros Sandoval, Ricardo Ruiz Camacho, Remigio Ayala Martinez and Julio Bello Palacios were allegedly arrested and tortured on 11 January 1997 by members of the Preventive Police of Yutepec, in Yautepec, State of Morelos. The Government stated that the Human Rights Commission of the State of Morelos had addressed a recommendation on the subject to the Mayor of Yautepec to the effect that he should order an administrative investigation of the police officers involved in the case with a view to sanctioning them. This case did not involve alleged torture and other cruel, inhuman or degrading treatment or punishment.

91. A group of over 200 persons who were taking part in a peaceful march were allegedly tortured on 10 April 1996 by members of the Anti-Riot Squad belonging to the Public Security Directorate in San Rafael Zaragoza, municipality of Tlatizapán, State of Morelos. The National Human Rights Commission made a recommendation concerning this case on 29 May 1996. Pursuant to this recommendation, the Governor of the State of Morelos instructed the Ministry

of the Interior and the Government Procurator to initiate the necessary administrative and ministerial proceedings. Among other things the recommendation called for an inquiry to determine who was responsible for the events of 10 April 1996 and, if necessary, their punishment as well as a preliminary investigation concerning the Director-General for Preliminary Investigations attached to the Government Procurator's Office, the Government Procurator's representative in Jojutla, the representative of the Public Prosecutor's Office in Tlaltizapán and the staff of the Public Procurator's Office who were associated with the previous flawed investigation. It also recommended that administrative proceedings should be instituted against the General Coordinator of State Public Security, the forensic physician of the State Procurator General's Department implicated in the case and the Chief of Staff of the Office for the General Coordination of State Public Security. It recommended the investigation of the Director-General of the State Preventive Police and its Deputy-Director (Operations) for the Oriente region, and appropriate compensation for the family members and victims. The Commission's recommendation was fully implemented by 17 September 1998 according to its President.

92. Estanislao Martínez Santiago, arrested on 1 September 1996 near Copalito, State of Oaxaca, by members of the State Judicial Police, was allegedly transferred to San Mateo Peña and tortured. According to the information provided by the Government no previous reference to this case was found by the National Human Rights Commission or by the Human Rights Commission of the State of Oaxaca.

93. Francisco Valencia Valencia, arrested in El Manzanal, State of Oaxaca, on 2 September 1996 was allegedly taken to San Miguel Zuchitepec and then to La Crucesita and tortured by judicial police officers. The Government stated that the inquiry opened by the National Human Rights Commission had been brought to an end on 31 January 1997 by judicial decision during the trial proceedings.

94. Evaristo Peralta Martínez was allegedly arrested and tortured by members of the State Judicial Police on 4 September 1996 in Miahuatlán, State of Oaxaca. The Government stated that neither the National Human Rights Commission nor the Human Rights Commission of the State of Oaxaca had found any trace of a complaint in connection with this matter.

95. Amadeo Valencia Juárez and Roberto Antonio Juárez were allegedly arrested and tortured by members of the Preventive Police, the State Judicial Police, the Federal Judicial Police and the Army on 6 and 7 September 1996 in the State of Oaxaca. The investigation launched by the National Human Rights Commission on 10 July 1997 had covered both cases. The National Human Rights Commission requested information from the authorities allegedly responsible as well as from the Office for Preventive Measures and Social Rehabilitation of the Ministry of the Interior. The National Commission found nothing in this information or in the statements obtained by the Commission's inspectors from individuals, that confirmed the various irregularities reported in the complaint - the period of detention having been in accordance with the arrest warrants issued by the court of combined jurisdiction of first instance of Santa María Huatulco, municipality of Pochutla, Oaxaca, as well as by the fifth district court of that municipality. On this basis, the National Commission found that the bodies concerned had acted

in accordance with the law. In view of the charges brought against the persons mentioned above, the Commission brought the investigation to a close on 27 October 1997 since it involved a jurisdictional matter.

96. Oliverio Pérez Felipe, 17 years of age, was allegedly arrested and tortured on 8 September 1996 in Santa Lucía del Camino, State of Oaxaca, by members of the State Judicial Police. The Government stated that the Human Rights Commission of the State of Oaxaca had indeed received a complaint in connection with the case but that it had been lodged in the name of Juan Luna Luna. Moreover, he had lodged a complaint with the National Human Rights Commission, a non-governmental organization, in respect of this matter. The minor, during an interview in the course of which he said that his real name was Oliverio Pérez Felipe, stated he was not interested in pressing the complaint submitted to the National Commission since the only thing he wanted was to leave the Guardianship Council as soon as possible. He also withdrew the complaint submitted to the State Commission, thereby bringing the inquiries and preliminary investigations initiated in connection with this case to an end.

97. Mario Guzmán Oliveras was allegedly detained and tortured on 15 September 1996, in Oaxaca, by individuals in plain clothes presumably belonging to the security bodies. He reportedly lodged a complaint about the incident on 21 September 1996 and obtained a medical certificate attesting to his injuries. The Government stated that neither the National Human Rights Commission or the Oaxaca State Human Rights Commission had found any trace of previous information concerning the case.

98. Razhy González Rodríguez was allegedly detained and tortured in Oaxaca on 17 September 1996, by individuals in plain clothes presumably belonging to the security bodies. The Government stated that the National Human Rights Commission had issued a recommendation in the case on 24 April 1998, to the effect that administrative proceedings should be initiated to determine the possible responsibility of agents of the Public Prosecutor's Office assigned to Branch No. 10 of the Preliminary Investigations Central Sector and a commander and judicial police officer of the Homicide Investigation Group. The recommendation had been partially fulfilled, in that administrative investigations were pending while any arrest warrants were executed.

99. Régulo Ramírez Matías was allegedly detained and tortured on 8 September 1996 by members of the State Judicial Police in La Crucecita, State of Oaxaca. The Government stated that the inquiry opened by the National Human Rights Commission had been closed on 13 May 1997, by judicial decision in the course of the trial.

100. Fortino Enríquez Fernández, Emiliano José Martínez and Luis José Martínez were allegedly detained and tortured on 25 September 1997 in a joint raid conducted by members of the preventive police, the State Judicial Police, the Federal Judicial Police and the army in San Agustín Loxicha, State of Oaxaca. The inquiries opened in these cases by the National Human Rights Commission were closed on 8 and 26 November 1997, by judicial decision in the course of the trial.

101. Manuel Ramírez Santiago and Fermín Oseguera were allegedly detained and tortured on 22 October 1996 in Tlaxiaco, Oaxaca, by armed individuals suspected of belonging to the

State Judicial Police and Federal Judicial Police. According to the Government, investigations conducted by the Oaxaca State Human Rights Commission determined that Felipe Sanchez Rojas had been detained by persons unknown and reappeared on 2 November 1996 to lodge a complaint and make a statement to the Government Procurator of the State of Oaxaca. A preliminary investigation was opened into the events with a view to punishing those responsible.

102. José Martínez Espinosa was allegedly detained and tortured by individuals suspected of belonging to the security forces on 8 January 1997 in Yucuxaco, Tlaxiaco, State of Oaxaca. The Government stated that the National Human Rights Commission had opened an inquiry into the case, concluding that the incident was not a violation of human rights and referring the complainant to the appropriate authority, on 28 July 1997.

103. Raciel or Rafael Santiago Salinas and his son, Gumersindo González Alonso, Pantaleón Julián Anastasio, Óscar Olivera Castillo, 14-year-old José Hernández Chávez, Rodolfo Cue Soto, Juan José Urista Cigtarroa and 14-year-year Mateo Clemente Flores were allegedly detained and tortured in Tuxtepec, State of Oaxaca, by members of the State Judicial Police, on separate occasions between 24 January and 31 July 1997. The Government stated that the National Human Rights Commission had been unable to find any trace of previous information concerning the cases in question.

104. Alberto Gómez García, Mariano Sebastián Rodríguez Godínez and Mario Carlos Fernández Romero, detained on 24 May 1997 in San Luis Río Colorado, State of Sonora, by members of the Federal Judicial Police, were allegedly taken first to the military barracks and subsequently to the Third Cavalry Regiment in Mexicali, Baja California, where they were tortured by members of the army. The Government stated that inquiries had been opened into these cases by the Office of the Procurator for Human Rights and Citizens' Protection of the State of Baja California, which referred the events relating to Alberto Gómez García to the National Human Rights Commission. A decision was awaited in the case, although information had already been supplied by the agencies concerned.

105. Felipe Pérez Calcáneo was allegedly detained and tortured on 5 December 1996 by members of the Municipal Police and State Judicial Police in Villahermosa, State of Tabasco. The Government stated that the National Human Rights Commission had made a recommendation and conciliation proposal concerning the case. An administrative file was opened in partial implementation of the recommendation. Pursuant to the conciliation proposal the competent authority was asked and had agreed to open a pre-trial investigation, and the appropriate steps were being taken.

106. Thirteen-year-old José López González and 9-year-old Reynaldo Ramírez Méndez, detained on 28 April 1997 in Emiliano Zapata Municipality, State of Tabasco, were allegedly tortured by members of the State Judicial Police. The Government stated that both children had admitted taking part in the robbery with which they were charged and that both had been handed into the care of the Juvenile Offenders Board. On giving their statements they had received medical examinations, which had revealed no sign of injuries. The National Human Rights Commission had received no complaints about the incidents.

107. Rebeca Hernández Gaitán and José Gomez Sánchez were allegedly detained and tortured on 1 February 1996 and 13 August 1997, respectively, by members of the Police in Nuevo Laredo, State of Tamaulipas. The Government stated that neither the National Human Rights Commission nor the Tamaulipas State Human Rights Commission had received any complaints concerning the cases.

108. Luis Enrique Muñoz was allegedly detained and tortured on 9 May 1996 in Reynos.., State of Tamaulipas, by members of the State Judicial Police. The Government stated that the Tamaulipas State Human Rights Commission had opened an inquiry into the case, which was resolved by an agreement of non-responsibility on 9 January 1998, in the absence of reliable proof of a violation.

109. Jesús Cruz Castillo, Armando Santos Orozco and Ricardo Kavieses Sotos were allegedly tortured on 12 June 1996 by warders at the local Social Rehabilitation Centre (CERESO) in Reynosa, State of Tamaulipas. The National Human Rights Commission had addressed a recommendation concerning the case to the Governor of the State of Tamaulipas on 6 November 1996, requesting that various measures should be taken to improve conditions at the above-mentioned Centre and to investigate the actions of the warder who shot and injured Jesús Castillo Lopez. It also requested investigations of various public servants who took part in the events. The recommendation had been partially implemented, as various measures were about to be taken to improve the situation at the Centre, and the preliminary investigation opened into the public servants involved was awaiting completion and a decision.

110. Raúl Magaña Ramirez and Oscar Magaña Ramirez were allegedly detained and tortured on 22 July 1996 by members of the Federal Fiscal Police in Reynosa, State of Tamaulipas. The National Human Rights Commission opened an investigation, which was concluded on 17 May 1997, by judicial decision in the course of the trial.

111. Juan Lorenzo Rodriguez Osuna was allegedly detained and tortured by members of the State Judicial Police on 28 November 1996, in the municipality of Altamira, State of Tamaulipas. The Government stated that the National Human Rights Commission had opened an investigation into the case, which concluded with the complainant being referred to the appropriate authority on 30 June 1997, as the case was not regarded as involving a human rights violation.

112. Sixteen-year-old Erik Cárdenas Esqueda, who was detained on 4 January 1997 by members of the Municipal Police in Nuevo Laredo, died after being taken to Police premises. His body allegedly bore signs of torture. Although the Tamaulipas State Human Rights Commission initiated an investigation, apparently no one was prosecuted. The Government stated that the investigation initiated by the State Commission resulted in two recommendations on 9 March 1998. Although one was not accepted and the other was implemented in an unsatisfactory manner by the Tamaulipas State Government, the complainants had not exercised the remedies available under the Act establishing the National Human Rights Commission for failure to fulfil recommendations made by local agencies.

113. David Garcia Hernández, detained on 21 January 1996 in Xalapa, State of Veracruz, was allegedly tortured by members of the State Judicial Police. The Government stated that

David García Hernandez had lodged a complaint with the National Human Rights Commission requesting legal action, which concluded with a referral to the appropriate body on 11 August 1997, as the case in question did not involve a human rights violation.

114. Guillermo Tolentino Tolentino was allegedly detained and tortured by members of the Public Security Police on 12 March 1996 in the community of Plan del Encinal, municipality of Ixhuatlán de Madero, State of Veracruz. The Government stated that neither the National Human Rights Commission nor the State Commission had received a complaint concerning the case. Furthermore, there was no record of anyone named Tolentino at CERESO, the Regional Coordinating Committee for the Tuxpan Judicial Police or the General Inspectorate of the Municipal Police.

115. Ricardo Ubaldo was detained on 24 October 1996 in Cordoba, State of Veracruz, by members of the State Judicial Police, following which his body was found, bearing signs of torture, at El Nache rural cooperative, municipality of Cuitlahuac. The Office of the State Government Procurator reportedly ordered several police officers detained. The Government stated that the National Human Rights Commission had been unable to find any trace of previous information concerning the case.

116. Francisco Hernández Santiago was allegedly detained and tortured on 28 February 1997 in Chicontepec, State of Veracruz, by members of the State Judicial Police. The Government stated that the National Human Rights Commission had opened an investigation into the case on grounds of arbitrary detention. As the complaint did not involve a human rights violation, the investigation concluded with a referral to the competent authority.

117. By letter dated 31 March 1999, the Government transmitted information further to a letter dated 15 March 1999 on the case of Mariano González Díaz (see para. 71). It stated that, as indicated above, the National Human Rights Commission had initiated an investigation which was referred for consideration to the National Commission's General Coordinating Committee for the Chiapas Highlands and Rain Forest; that Committee had requested information from the State Government Procurator, the National Public Security Commission and the Complaints Division of the Secretariat of National Defence in San Cristobal de las Casas. The information supplied by both agencies indicated that the investigation was referred to the Chiapas State Human Rights Commission by official letter No. 00193/97 of 8 May 1997. However, the National Human Rights Commission decided to exercise its power to extend jurisdiction and ordered the investigation reopened on 18 August 1997, as Case No. CNDH/122/97/BOSQ/S02966.068. The case was referred to the National Commission's General Coordinating Committee for the Chiapas Highlands and Rain Forest, which requested information from the Agreements Division of the Plenary of the Chiapas State Supreme Court of Justice and the Chiapas State Court Administrator and conducted visits to the communities of San Pedro Nixtaculum and Los Plátanos, municipality of El Bosque, Chiapas. The Government stated that the case had been closed on 8 October 1997, as the parties had signed a reconciliation agreement aimed at restoring community life and peaceful coexistence with mutual respect, in which they pledged to live together in peace and practise mutual respect and tolerance in political and religious matters. An operation to supply the inhabitants with staple goods was also

organized, and compensation was paid to the widows of four men who had been killed during the clash. The Government also stated that the corresponding authorities had discontinued the criminal proceedings which had been brought against the four individuals involved.

118. By letter dated 1 April 1999, the Government transmitted information further to a letter dated 15 March 1999 in connection with the case of Alfredo Rojas Santiago (see para. 83) and Sergio Martínez Santiago. The Government stated that recommendation 14/98 of the Guerrero State Human Rights Committee had not been accepted by the corresponding authority. The Government indicated that the complainants had not lodged an appeal with the National Human Rights Commission.

119. Concerning Estanislao Ramírez Santiago (see para. 92), the Government stated that inquiry No. 6885 (S.C.)/98 had been opened on 15 September 1998 into the alleged responsibility of members of the State Judicial Police for torture, illegal deprivation of liberty and threats; it was being processed by Branch No. XII of the Preliminary Investigations Central Sector.

120. With regard to José Martínez Emiliano (see para. 100), the Government stated that criminal proceedings had been initiated as Case No. 81/96 in Santa Cruz Huatulco for serious offences (events at La Crucecita, aggravated homicide, attempted homicide, aggravated injury, criminal damage to property ...), for jurisdictional reasons they were being handled by the Fifth District Court as Case No. 77/96.

121. Concerning Felipe Sánchez Rojas (see para. 101), the Government stated that the Oaxaca Human Rights Commission had informed it that the case involving Felipe Sánchez Rojas, violently detained on 28 October 1996 by persons unknown in Tlacochistlahuaca, Guerrero, had been ordered closed on 22 April 1997. This was because of the complainant's lack of interest in pursuing the matter, as, although Filemón López had been notified of the reappearance of the injured party, Felipe Sánchez Rojas, the Oaxaca Human Rights Commission had received no reply or other communication from the complainants.

122. In the case of José Hernández Chávez (see para. 103), the Government stated that, following Mr. Hernández' detention for attempted robbery, preliminary investigation No. 503 (II)/97 had been initiated and assigned to the First Criminal Court of that judicial district as criminal case No. 2032/97. On 17 July 1997, it having been shown that Hernández was a minor, the judge in the case placed him at the disposal of the Juvenile Offenders Board.

Venezuela

Follow-up of recommendations of the Special Rapporteur on torture, contained in the report on his June 1996 visit to Venezuela (E/CN.4/1997/7/Add.3)

123. By a letter dated 17 September 1997, the Special Rapporteur drew the Government's attention to the recommendations he had made following his visit to Venezuela in June 1996 and requested information on measures taken to put them into practice (for the full text of the

recommendations, see document E/CN.4/1997/7/Add.3, sect. IV). The Government replied to the request in letters dated 29 January and 3 February 1998. A summary of the recommendations and the Government's reply are reproduced below.

124. Most of the recommendations were reflected in the new Code of Criminal Procedure (CCP), which was adopted on 10 December 1997 and entered into force on 1 July 1999, and, in the administrative sphere, through political commitments made by the Minister of the Interior and the Minister of Justice at the first meeting of non-governmental organizations with the National Executive, held in Caracas on 4 July 1997, for the purpose of establishing a national human rights programme.

125. The Rapporteur recommended that the period of time in which detained persons were to be brought before a judge should be reduced from eight to no more than four days and that detainees' access to legal advice should be guaranteed within 24 hours. The Government stated that the new CCP reduced the period within which detainees must be brought before a judge to 48 hours and also made provision for the assistance of a lawyer at the time of detention, either of the detainee's own choosing or assigned by the court at the commencement of proceedings, or at the latest before the accused's statement was taken. In addition, the Code explicitly included the right of the detainee: to be informed clearly of the charges against him, to communicate with his relatives and legal counsel, and to be assisted by counsel of his own choosing or assigned by the court.

126. Concerning the recommendation that the Government should guarantee detainees' contacts with their families in accordance with the United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, the Government stated that the Ministry of Justice was reviewing the prison visiting system, as part of a complete overhaul of inspection and security measures to include detection devices and a new visiting system.

127. With regard to the adoption of measures to safeguard the right of detainees to a proper medical examination, in accordance with the above-mentioned Principles, the Ministry of Justice had submitted a comprehensive health care programme encompassing both preventive and curative measures affecting prisoners in their daily lives and in prison clinics. It covers maintenance of prison clinics and dental and pharmaceutical facilities. A proposal to count medical service in prisons as part of the obligatory rural service performed by doctors was to be submitted to the national universities.

128. The Rapporteur recommended that judicial complaints against police officials should be investigated by an independent body. The Government stated that the CCP granted the Public Prosecutor's Office, in cooperation with the Criminal Investigation Police, exclusive competence for criminal proceedings.

129. The Rapporteur pointed out the need to make senior law enforcement officials aware that ill-treatment was not acceptable and would be dealt with severely. The Government referred to the commitment made by the Ministry of Justice at the meeting between the National Executive

and human rights NGOs concerning various points at issue, pending the entry into force of the CCP, at which point the use of ill-treatment to obtain information from detainees would be inadmissible.

130. Concerning the Rapporteur's recommendation that the Institute of Forensic Medicine should be independent of any authority responsible for the investigation or prosecution of crime, the Government stated that, following the introduction of the new accusatorial procedure by the CCP, all criminal investigation bodies, including that Institute and the Judicial Police Technical Unit, would be under the authority of the Public Prosecutor's Office, although administratively they would continue to be attached to the Ministry of Justice. The latter would not be able to interfere in any way with orders issued by the Public Prosecutor.

131. Regarding the introduction of a system of regular visits to all places of detention, with participation by independent persons of standing and representatives of NGOs, the Government stated that the Ministry of Justice, with assistance from the European Union and NGOs, had provided training courses in human rights for virtually all staff of the prison system, with special emphasis on the proper treatment of prisoners.

132. The Rapporteur recommended that extrajudicial confessions should not be admissible as evidence against anyone other than a person charged with using force to obtain them. The Government stated that the new CCP introduced a new, broader and freer system of evidence, as opposed to the previous system of ratings for each type of evidence, and in particular eliminated oral confession as the most highly rated piece of evidence (Regina Probatorium). The new provisions included the following: "No information shall be used which has been obtained through torture, ill-treatment, coercion, threats, deception, undue intrusion into the privacy of the home, correspondence, communications, private papers and files, or any other means against an individual's will or in violation of his fundamental rights. Similarly, information resulting directly or indirectly from illicit means or procedures shall be given no value". Accordingly, only statements made before a judge would have probative value, and it would not be possible to interrogate an accused in the absence of his defence counsel.

133. With regard to the drawing-up of a code of practice for the conduct of interrogations by law enforcement officials, the Government pointed out that the police were no longer empowered to take statements. On that point, the Ministry of the Interior had made commitments during the meeting between the National Executive and the human rights NGOs, in a decision setting out the Executive's sectoral human rights programme. The decision included safeguards for the rights of citizens vis-à-vis the police and measures for the training of police officers.

134. The Rapporteur recommended that torture, as defined in article 182 of the Penal Code, should be made a criminal offence in any case of detention, not just when inflicted in prison. The offence should have no period of statutory limitation or, at the very least, a period equal to that applicable to the most serious crimes under the Penal Code, and should be punished as severely. In general, provisions regarding the offence of torture should be in conformity with the standards set forth in the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Government stated that consideration had begun of a bill to characterize torture as an offence and establish standards for preventing and punishing it

in accordance with the international conventions ratified by Venezuela. The bill was to be evaluated by the National Human Rights Commission in consultation with NGOs, together with the Human Rights Bill.

135. The Rapporteur recommended that the absence of marks of torture should not necessarily be treated by the Public Prosecutor's Office or judges as proof that allegations of torture were false. The Government pointed out that the CCP would make statements made during the oral proceedings the sole testimony with probative value, and that confession no longer carried greater weight than other forms of testimony.

136. The Rapporteur recommended that nudo hecho proceedings should not be allowed to delay the opening of criminal proceedings against public officials for more than a few weeks, and that they should not be subject to a statutory limitation period. The Government stated that nudo hecho proceedings had been eliminated under the new CCP, with the exception of cases involving the President of the Republic or other senior State officials.

137. The false denial to a representative of the Public Prosecutor's Office of a person's detention or the refusal of that representative's access to a detainee should be vigorously pursued as an act requiring instant dismissal of those responsible for the place of detention. The Government stated that action to dismiss a person responsible for a place of detention could only be ordered as the maximum penalty in an administrative disciplinary process.

138. The Rapporteur recommended that representatives of the Public Prosecutor's Office should be rotated so as to avoid becoming overtly identified with law enforcement or military personnel in a particular locality or place of detention. The Government stated that the new CCP stipulated: "Prosecutors shall not be attached to a particular court or police unit; regional organization shall be based on the principles of flexibility and teamwork; prosecutors shall be appointed by area of expertise or territorial competence in accordance with the needs of the service".

139. The Rapporteur recommended that the judiciary should monitor conditions of detention or imprisonment closely and systematically to ensure that they were consistent with the prohibition of cruel, inhuman or degrading treatment or punishment and with respect for human dignity enshrined in the international human rights instruments. The Government stated that the CCP assigned supervision of the enforcement of the prison regime to the responsible court, which would, in particular, take measures for the inspection of prisons in which members of the Public Prosecutor's Office would be able to take part. The judges making such visits would call on the competent authority to take the necessary measures to remedy and prevent any deficiencies noted.

140. Concerning the adoption, as a matter of urgency, of measures aimed at reducing the number of pre-trial detainees, the Government indicated that the CCP made pre-trial detention an exception, in that no citizen could be detained without judicial authorization. A new feature was compensation of the accused for excessive time spent in detention, either on acquittal or on reduction of his sentence following a review of the proceedings, unless he himself had been responsible for the proceedings against him.

141. Concerning the recommendation that convicted prisoners should be separated from unconvicted prisoners, the Government indicated that following the June 1997 census the classification of prisoners set forth in the Penal Code had been introduced; the Code referred to convicted and unconvicted prisoners, judicial detainees, detention centres and general prisons. It noted that the new CCP empowered judges to order pre-trial detention in limited cases, where there was reliable evidence of guilt and a danger of the person fleeing or concealing evidence.

142. The Rapporteur also recommended that first-time offenders should be kept separate from recidivists, and that those held in connection with the commission of serious offences, particularly of a violent nature, should be kept separate from other detainees or prisoners. The Government stated that, following the establishment of the detainees' register, a review of individual cases had begun. It also hoped to comply with the recommendation through the prison buildings construction programme already under way, the acceleration of proceedings and relieving overcrowding in prisons.

143. The Rapporteur recommended that children should be deprived of liberty only as a last resort. They should also be held in centres intended for them alone, where they should receive medical, psychological and educational assistance. On that point, the Government drew attention to a series of programmes undertaken by the National Children's Institute, and described a few of them: initial assessment centres, diagnostic and treatment centres, external consultation service and probation service. All the programmes attempted to address the problem of children in conflict with the law from different standpoints.

144. The Rapporteur recommended that a trained corps of personnel should be available to ensure that prisoners were treated in accordance with the Standard Minimum Rules for the Treatment of Prisoners, and that control of prisons should never be abandoned to their inmates. The Government stated that the training programmes of the University Institute for Prison Studies were being reviewed to ensure that prisons received sound technical assistance from the evaluation, security and management teams. Plans also focused on providing not only supervisory, but also custodial, staff with training in therapeutic techniques to assist prisoners, through the establishment of scientifically classified treatment modules. During 1997 the Ministry of Justice had changed the job description for prison governors, requiring them to be qualified lawyers of standing with the humanitarian qualities needed to carry out their tasks. Measures had been taken to ensure that all staff joining the prison service were properly selected and trained. The Government stated that the problem of prison violence was closely linked to drugs; accordingly, the preventive inspection and monitoring programme had been designed in order to detect drugs as they entered prisons. To end possession of weapons by inmates, a national weapons return campaign had been held.

145. The Rapporteur recommended that changes in the system of criminal procedure and the judiciary should be implemented promptly, especially with regard to delays in the administration of justice. According to the Government, the new CCP guaranteed "prompt and transparent justice, imbued with equity".

146. With regard to the recommendation on the establishment of a national institution for the promotion and protection of human rights, the Government reported the establishment, in 1996, of the National Human Rights Commission, with the following objectives: to advise the

Executive on all national or international human rights issues, thus contributing to the fulfilment of Venezuela's commitments under international agreements and treaties; to consider and recommend appropriate domestic measures to that end; and to serve as a body for facilitating cooperation between the Executive and NGOs. It stated that the Commission was made up of representatives of the Procurator General's Office, the Ministries of the Interior, Foreign Affairs, Defence, Education, Labour, Justice and the Family, the Office of the Governor of the Federal District and the National Borders Council.

147. The Government also drew attention to the following improvements and innovations introduced by the CCP: abolition of sub judice rule; changeover to an accusatorial system; establishment of the principle of human dignity; system of two parties with a third, impartial party (judge) empowered to introduce facts into the proceedings by interrogating experts and witnesses, and ordering the taking of new evidence; exceptional nature of pre-trial detention as a reinforcement of the principle of personal liberty; reflection of the presumption of innocence principle throughout the legislation; attribution of responsibility for criminal proceedings to the Public Prosecutor's Office; subordination of the Judicial Police to the Public Prosecutor's Office; oral nature of criminal proceedings; public proceedings as a general rule; concentration of oral proceedings in a single day or as few consecutive days as possible; principle of immediacy, in that the court alone may render its judgement, based on facts and evidence evaluated by it; participation of the public through mixed courts comprising two "escabinados" and the institution of juries; change in the system for assessing evidence, with the invalidation of all illicit means of extracting evidence, especially torture, and the introduction in its place of a system of assessment based on the principle of personal conviction as a direct consequence of the principle of immediacy; more expeditious proceedings; derogation from the special procedures provided for in the Public Heritage Protection Act and the Act relating to Narcotic and Psychotropic Substances; establishment of the post of enforcement judge to monitor the legality of that phase of the criminal proceedings; and reorganization of the phases of criminal proceedings: preparatory phase handled by the Public Prosecutor's Office, intermediate phase in which the court upholds the charges or decides to dismiss the case, and public hearing in the presence of the accused.

148. The Government also reported the establishment of the Social Alliance for Justice, made up of social, entrepreneurial, academic and corporate organizations, which was intended to coordinate participation by civil society in State action through the monitoring of the new legislative reform processes, preparation of a bill to reform the title of the Constitution relating to the judiciary and Public Prosecutor's Office, and the holding of a campaign to raise public awareness of the urgency of the reform and the need for public support in carrying it out.